

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

---

In the Matter of )  
Implementation of Section 621(a)(1) of )  
the Cable Communications Policy Act of 1984 )  
as amended by the Cable Television Consumer )  
Protection and Competition Act of 1992 )

---

MB Docket No. 05-311

**COMMENTS OF THE CITY OF SAN MARCOS CALIFORNIA**

These Comments are filed by the City of San Marcos in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, San Marcos believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

**SUMMARY**

The *Notice* was initiated as the result of complaints by wireline telephone companies that the local franchise requirements constitute an unreasonable barrier to the timely deployment of internet protocol (IP) based services.<sup>1</sup> The *Notice* asks if local franchise authorities (LFAs) are "carrying out legitimate policy objectives" or "hindering" the Commission's policy objectives of increased competition and accelerated broadband deployment.<sup>2</sup>

---

<sup>1</sup> *In the Matter of Annual Assessment of the Status of Competition in the Market for the delivery of Video Programming*, MB Docket No. 05-255 (*"Video Competition Docket"*).

<sup>2</sup> *Notice* ¶ 10.

Franchise rules are intended to ensure the public health, safety and welfare, prevent economic red-lining, provide for reasonable build-out requirements and ensure provision of public, educational and government channels. They also promote competition by providing an equitable framework for entry into the video market and reasonable compensation for the use of the public right-of-way. The time, money and effort now being spent by the wireline telephone companies to avoid franchise rules exceeds that necessary to obtain a local franchise.

### **Cable Franchising in Our Community**

San Marcos is a city in north San Diego County, California with a population of 73,054. San Diego County has a population of almost three million citizens who are served by three major cable systems: Adelphia Communications Corporation ("Adelphia") with approximately 75,000 subscribers, Time-Warner, Inc. ("Time-Warner") with nearly 200,000 subscribers and Cox Communications, Inc. ("Cox") with about 500,000 subscribers. San Marcos is served by Cox and Adelphia pursuant to existing franchise agreements.

### **Competitive Cable Systems**

Our community has negotiated cable franchises since 1993. The Cox franchise agreement expires in February 2008 and negotiations for a renewal have commenced. However, as of the date of this filing, there have been no applications for competitive cable franchises in San Marcos other than the two that already exist.

San Marcos believes that having advanced telecommunications services available to our citizens and businesses is a quality of life issue to which we are fully committed. Our community supports and welcomes telecommunications competition.

This is a good example of a situation in which city officials have the best understanding of local needs and conditions. San Marcos is anxious to have AT&T enter the video market and make available improved broadband service to its citizens. The

Commission can be assured that when AT&T, or any other competitor, submits an application for a franchise agreement, it will be processed as expeditiously as possible.

### **Conclusions**

The local cable franchising process functions well in San Marcos. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of San Marcos therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair

the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,

By: R.W. Gittings  
City Manager  
City of San Marcos  
1 Civic Center Drive  
San Marcos, California 92068

cc: San Marcos City Council  
National League of Cities, [leanza@nlc.org](mailto:leanza@nlc.org)  
NATOA, [info@natoa.org](mailto:info@natoa.org)  
John Norton, [John.Norton@fcc.gov](mailto:John.Norton@fcc.gov)  
Andrew Long, [Andrew.Long@fcc.gov](mailto:Andrew.Long@fcc.gov)  
Genevieve Morelos, League of California Cities, [gmorelos@cacities.org](mailto:gmorelos@cacities.org)